



TOWN OF CAPE ELIZABETH

TOWN HALL

320 OCEAN HOUSE ROAD

CAPE ELIZABETH, MAINE 04107

September 11, 1978

To all Cape Elizabeth Boards,
Commissions and Committees

There has been a great deal of interest recently in and out of the press concerning freedom of access to public records and proceedings. This interest is not centered around violations of the public law, but rather its interpretation and implementation. The Town Council agrees that all public bodies of the Town, advisory or acting finally, ad hoc or standing, must throw their full support, in word as well as spirit, behind the State's Freedom of Access Law.

Cape Elizabeth town bodies have long appreciated fully that they are dealing with public business, and they have certainly never taken action or made recommendations except in their members' view of the best interests of the Town. However convenience, avoidance of embarrassment and conflict, a preference for informality and simplicity, and other equally understandable desires have sometimes led to avoidance of the public and simple neglect to advise or invite the public to hear and see why actions or recommendations are being formulated.

The Freedom of Access Law (enacted in 1959 and substantially changed in 1973 and 1975) has changed the manner in which public business is to be conducted. As in any period of transition, on occasion this has led to unknowing and unintended violations of the Law, and possibly to some strained interpretations of it. The Council simply feels that the time has come that all town bodies must operate well within this Law, on the presumption that the public must know of their meetings and be allowed to attend.

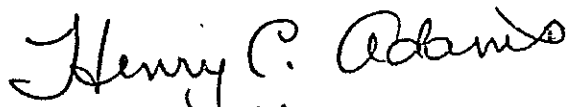
This does not mean published notice one week in advance, unless required by ordinance, but the Town Manager should be notified several days in advance to allow posting notice outside the Town Hall; with last-minute meetings the press should be notified directly. This does not necessarily mean the public must be allowed to participate: this is up to the board, based upon the value of public comment, the time available and orderly conduct of the meeting.

September 11, 1978
Page 2

However this does mean no secret meetings, and no exclusion or avoidance of the public except by a public, recorded vote of 3/5 of the members present, specifying generally the matters to be discussed, and then only for the statutory reasons for executive session. The town attorney has summarized the procedures and reasons on the attached sheet.

The public does have a right to know what public actions are being taken or recommended, when, and why. We have and should have nothing to hide, whereas secret sessions can raise suspicions, no matter how groundless. The Town Council is requiring that all of the business of our Town be conducted within these parameters. There can be no other way.

Sincerely yours,



Henry C. Adams
Chairman, Town Council

HCA/1ml

cc: Mr. John E. Henchey, Town Manager
Mrs. Jane A. Amero, School Board
Mrs. E. J. Silke, Gannett Publishing

EXECUTIVE SESSIONS

9/11/78

Executive sessions only by public, recorded vote of 3/5 of members present, identifying the "precise nature" of all business to be considered (without defeating purpose of session, as by disclosing names of persons, places, things or technical provisions), only on the following matters:

- A. Personnel: Consideration of employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, discipline, resignation or dismissal of town officials, appointees or employees, and investigation or hearing of complaints, provided
 - (1) Public discussion could be reasonably expected to damage reputation or to violate the individual's right to privacy;
 - (2) The person charged or investigated, and any person alleging misconduct, shall be permitted to be present;
 - (3) On request by the person charged or investigated, the investigation or hearing shall be public.
- B. Property: Consideration of the acquisition, condition or use of real estate, or the disposition of public property, only if premature disclosure would prejudice the town's competitive or bargaining position
- C. Union Contracts: Negotiations with employee representatives unless both parties agree to open sessions; contract discussions between a body and its own negotiating representatives may be in executive session.
- D. Attorney Consultation: Consultation with the body's attorney concerning (1) its legal rights and duties, (2) pending or contemplated litigation, (3) settlement offers, (4) matters where the attorney's duty to his client precludes public discussion, and (5) matters where premature general public knowledge would clearly place the town at a substantial disadvantage.
- E. Confidential Records: Discussion of information in records maintained or received by the body to which general public access is prohibited by statute.